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Mishna

One who slaughters an animal on *Shabbos* or on *Yom Kippur*; even though he is put to death, the slaughtering is a valid one. (14a)

Forbidden on that Day

Rav Huna said: Chiya bar Rav expounded in the name of Rav that the animal was nevertheless forbidden to be eaten on that day. [*It cannot be eaten until after Shabbos or Yom Kippur.*]

His colleagues suggested that the reason for this ruling is because the *Mishna* is in accordance with Rabbi Yehudah.

The *Gemora* seeks to find the ruling of Rabbi Yehudah which demonstrates this: Rabbi Abba said: It is the Rabbi Yehudah with respect of ‘preparation,’ for it was taught in a *Mishna*: One may cut up gourds and place them before an animal on *Shabbos*, and one can cut up a carcass and place it before dogs on *Shabbos*. Rabbi Yehudah, however, maintains that if the animal was alive prior to *Shabbos*, (*it is muktzeh, and therefore*) it is prohibited, for it was not something that was prepared from before *Shabbos*. So too here, since the meat was not prepared from before *Shabbos*, it is forbidden.

Abaye said to him: How can the cases be compared? In the *Mishna* there (*by the neveilah to the dogs*), the animal (*when it was alive*) was originally prepared for human consumption, but now (*after it died without shechitah*), it merely serves as food for dogs; whereas, in our *Mishna*, the animal was

originally prepared for human consumption, and now as well (*after the shechitah*), it serves for human consumption (*so it should not be forbidden!*)?

The *Gemora* answers: You are assuming that a live animal is intended for food; in truth, it is intended for breeding purposes.

If so, the *Gemora* asks, why, according to Rabbi Yehudah, is it permitted to slaughter an animal on a festival? [*It should be regarded as muktzeh, for it is not prepared for consumption!?*]

Rabbi Abba answered to Abaye: The truth is that a living animal is intended both for breeding purposes and for food. [*He then applies the principle of bereirah – retroactive clarification.*] If it was slaughtered on *Yom Tov*, it is retroactively deemed to have been prepared for consumption (*and therefore it will be permitted to eat*); if it was not slaughtered on *Yom Tov*, then it is retroactively deemed to have been prepared for breeding (*and therefore it is muktzeh*).

The *Gemora* asks: But surely Rabbi Yehudah does not hold of the principle of *bereirah*?

The *Gemora* asks: From where do we know this? Perhaps you will say that it is from that which was taught in the following *braisa*: A man bought wine from Cutheans, who we assume have not taken any *terumah* or *ma’aser* (*tithes*); however, the buyer has this wine at the onset of *Shabbos*, and may not separate these on *Shabbos*. He likewise may not drink the

wine without doing so. Rabbi Meir's solution is for the buyer to use *bereirah*. He can state that the various tithes that must be taken should now be separated from the appropriate amounts of wine that will remain at the end of *Shabbos*, and then drink the wine. Even though he is now separating the tithes, and thereby making the wine permitted, he is only designating what the actual tithes are at a later point, through *bereirah*. Rabbi Yehudah, Rabbi Shimon, and Rabbi Yosi do not allow this, indicating they do not accept *bereirah*.

The *Gemora* rejects this as a source, for the reason of Rabbi Yehudah is not because he does not hold of the principle of *bereirah*, but rather, it is because of the reason taught at the end of that *braisa*: They said to Rabbi Meir: Do you not agree that we should be concerned that the wineskin might break (*before the terumah and ma'aser were actually separated*) and it will emerge that he was retroactively eating *tevel* (*untithed produce*)! Rabbi Meir answered them: We will concern ourselves with this only when the wineskin actually breaks.

Rather, the source (*that Rabbi Yehudah does not hold of the principle of bereirah*) is from the following *braisa*, which Ayo taught: [*The Gemora there discusses the halachah regarding eruv techumin. One can only walk two thousand amos outside of his town on Shabbos. If one wishes to walk further, he can place some food outside the city in the direction he would like to go. This establishes his residence there and will therefore extend his ability to walk in that particular direction. This is called eruv techumin.*] The Mishna speaks about a case where it has been reported that a scholar was coming on *Shabbos* to a place between 2,000 and 4,000 *amos* from the town and one wishes to greet the scholar on *Shabbos*, but is unsure from which direction the scholar would be coming from. Rabbi Yehudah says that a person cannot place conditions on two things at the same time (*for he does not hold of the principle of bereirah*); but rather, one can place an *eruv* both in the east and in the west, and say, "I want my *eruv* to be effective for whichever direction the

scholar will come. However, if makes a condition that if two scholars come, he will go to the place that he chooses on *Shabbos*, this is not effective (*for then the eruv will only be effective retroactively, and R' Yehudah does not hold of bereirah*). And the *Gemora* asked: What is the difference between the two cases? Just as it is not effective in the case of the two scholars (*for he does not hold of bereirah*), it should not be effective by one scholar as well (*for he is not deciding now which eruv he wants; it will be decided by the direction of the scholar on Shabbos; this requires bereirah as well!*)!? And Rabbi Yochanan answered that the case is where the scholar has already arrived (*but this fellow was unaware as to which direction he was; accordingly, when he finds out where the lecture will be taking place and he chooses which eruv he wants to be effective, this is not a clarification; rather, it is merely informing him of what has already transpired the day before*). [*In conclusion, we have proven that Rabbi Yehudah does not hold of the principle of bereirah; we must therefore say that he holds that an animal is prepared for consumption from before Yom Tov and is not muktzeh; accordingly, we have no proof to say that R' Yehudah holds that an animal that was slaughtered on Shabbos should be forbidden on that day!?*]

Rather, Rav Yosef says that it is in reference to the Rabbi Yehudah regarding vessels that broke on *Shabbos*, for it was taught in a *Mishna*: Any vessels, which may be moved on *Shabbos* (and they broke on *Shabbos*), their fragments may also be moved on *Shabbos*, provided that they can perform some type of work, e.g., fragments of a mixing bowl that can be used for covering the opening of a cask, or fragments of a glass for covering the opening of a flask. Rabbi Yehudah says (*they need to meet the following condition to be permitted*): Provided that they can be used in the nature of their former work, e.g., fragments of a mixing bowl that (*now, as a container*) can have porridge poured into them, or fragments of a glass that can have oil poured into them.

Now, according to Rabbi Yehudah, they are permitted to be handled only if they can be used in the nature of their former

work, but not if they can perform some type of work. This, therefore, shows that since they were not prepared from before *Shabbos* for that particular work, it is forbidden to use them for such purpose on *Shabbos*; so here also (*when the animal was slaughtered on Shabbos*), since the animal was not prepared for consumption (*from before Shabbos*), it is forbidden to be eaten on *Shabbos*.

Abaye said to him: How can the cases be compared? There we are dealing with something that was originally a vessel and is now a fragment of a vessel, which is a case of *nolad* (*newly created*), and consequently it is forbidden; whereas here, we are dealing with something that was originally prepared for food and now too, it is prepared for food. It is similar to food that has been separated from a larger portion of food, and we have already ascertained that according to Rabbi Yehudah, where the food has been separated from a larger portion of food it is permitted, for it was taught in a *Mishna*: One cannot squeeze fruits on *Shabbos* with the intention of using the juice and even if the juice oozed out by itself, one would not be allowed to use the juice (*for we are concerned that he will come to squeeze it*). Rabbi Yehudah maintains that if these fruits were intended for food, then the juice is permitted (*as he does not want the juice and therefore there is no concern that he will come to squeeze the fruit*). If the fruit was intended to be used for the juice, however, then one is prohibited from drinking the juice that oozed from them. [*This ruling of Rabbi Yehudah indicates that anything that is extracted from food is deemed to be food, and is not regarded as something which is 'newly created.'*]

The *Gemora* answers: But has it not been stated regarding this *halachah*: Rav Yehudah said in the name of Shmuel that Rabbi Yehudah agrees with the Sages regarding liquids that ooze from a basket of olives or grapes (*that even if the fruits were stored for eating, their juices are prohibited on Shabbos, for the majority of people squeeze them*). We see that since these fruits are usually kept for squeezing, one would always be inclined to do so at all times (*even if he wishes to eat*

them). Here also, since an animal is usually kept for slaughtering, one would always be inclined to do so (*and therefore it is forbidden on Shabbos, for we are concerned that he might come to slaughter it on Shabbos*).

The *Gemora* rejects this line of reasoning, for the whole explanation is based upon Rav's original statement (that the meat cannot be eaten on that *Shabbos*), and Rav has stated that Rabbi Yehudah was in conflict with the Sages even in the case of baskets of olives and grapes!

Rather, Rav Sheishes the son of Rav Idi says: It is in reference to Rabbi Yehudah regarding the lamps, for it was taught in a *braisa*: One may move only a new lamp (*of earthenware*) on *Shabbos* (*since it was never used, it is not repulsive, and it can be used as a container for produce*), but one may not move an old lamp (*for it is repulsive, and therefore muktzeh*). [*Accordingly, the slaughtered animal will be forbidden for consumption; since beforehand, it is forbidden on account of 'the limbs from a live animal,' he therefore puts it out of his mind, and is forbidden on account of muktzeh – even if it slaughtered.*]

The *Gemora* asks: we have only heard that Rabbi Yehudah holds this way regarding *muktzeh* on account of repulsiveness; have we heard that he holds this way when the *muktzeh* is because of a prohibition?

The *Gemora* answers: yes! We have heard so even in that case, for it was taught in a *braisa*: One may move any metal lamp on *Shabbos*, except for a lamp that had been lit for *Shabbos*. [*This is because Rabbi Yehudah holds of muktzeh on account of repulsiveness and of the concept of muktzeh because of a prohibition.*]

The *Gemora* asks: perhaps that is only because he actively rejected it (*which is not the case by the animal*)? (14a - 15a)

INSIGHTS TO THE DAF



Bereirah

In the course of discussing Rabbi Yehudah's ruling, the *Gemora* introduces the concept of *bereirah*. *Bereirah* is a wide ranging concept, appearing throughout Shas, in a variety of forms, having ramifications in many halachic areas. Below are a number of facets of *bereirah*, which appear in the Rishonim and poskim.

Cases

Courtyard neighbors

The *Gemora* (Nedarim 55b-56b) discusses the status of two people who are partners in a courtyard. They both have use rights, but it may depend on *bereirah* to determine exactly when each one has ownership at a given time.

Partners

The *Gemora* (Beitzah 37b-38a) discusses cases of partners who split their joined item, insofar as *techumim* ownership. *Bereirah* allows us to consider the ultimate allocation reflective of the original true ownership.

Inheritance

This case is discussed by Rabbi Yochanan (*in Bava Kamma*), and appears in many other *Gemoros*.

Separating Tithes

This case is discussed by Rabbi Meir and Rabbi Yehudah in our *Gemora*, and appears in many other *Gemoros*.

Choosing a Techum

The *Gemora* (here) discusses various *Eruvei Techumim*, where the actual details of the *Eruv* are left for later clarification, using *Bereirah*. The *Gemora* includes a lengthy

discussion of Rabbi Yehudah's position on *Bereirah*, based on multiple conflicting sources.

Why does (or doesn't) it work?

Tosfos (Eruvin 37b Ela) states that those who do not accept *bereirah* feel that later designation is meaningless, and therefore the action is not effective at all. In our case, this means that the separation that will happen after *Shabbos* is meaningless, and therefore, the declaration at the onset of *Shabbos* has no wine to take effect on, and it not effective at all. Rashi (Chulin 14b osrin), on the other hand, states that those who do not accept *bereirah* simply hold that the later designation cannot resolve the initial unclarity. In the case of the wine, when the person declares that he is taking the tithes from wine that will be designated later, the tithes now exist in the wine, but the person cannot designate them later. Therefore, this wine has indeterminate tithes, and none of it can be used.

See Shaarei Yosher (3:22 v'af shera'isi) for a more detailed discussion of how *bereirah* does work, and what are its limitations. See Shiurei R. Dovid Lifshitz (Chulin, #29) for a further discussion of this dispute.

How much is unclear?

The Ran in Nedarim (55b v'ika) suggests that the case of partners' use in a courtyard can be considered full ownership, even according to those who generally do not accept *bereirah*, since the bulk of the "split" is already done, with only the exact time that it will be used left for later clarification.

Will it definitely be clarified?

Tosfos (Gittin 25b Rabbi Yehudah) states that some cases of *bereirah* are less acceptable, since there may never be any clarification. For example, as opposed to our case of the wine - where *some* wine will be taken, but it's not known which -

a case of one who consecrates the coin that he will take from his pocket, is a case where it's possible that no coin will be chosen at all.

Who decides?

The *Gemora* in Gittin (25a-b) raises the possibility that *bereirah* may be more acceptable in the case where the area left for later clarification depends on another party. If *bereirah* is unacceptable because the party doing the action must decide before acting, then if the only clarification is external, the active party has done his part, and left the rest up to something else. Examples of this are:

1. A person who betroths a woman, but stipulates that it will only take effect if the woman's father agrees.
2. A person who gives his wife a *Get*, which should be effective one moment before he dies. This is making it dependent on outside party, i.e., Hashem.

Explicit exceptions

There are cases where the Torah states an explicit detail, which overrides the general rules of *bereirah*.

The Torah explicitly states that a *Get* must be written "la" - for her (the wife), and from this the *Gemora* learns (Gittin 2b) that a *Get* must be written "lishma" - explicitly for the wife's sake. From this verse, Tosfos (24b l'aizo) suggests that even those who accept *bereirah* may invalidate a *Get* which was written for the sake of "the wife that I choose"

The *Gemora* (in *Bava Kamma*) mentions the case of brothers who split their father's estate as a case of *bereirah*. Tosfos (Gittin 48a Ee) suggests that, even without *bereirah*, inheriting brothers could be not subject to return on the Yovel year, due to the inherent nature of inheritance and Yovel.

Torah vs. Rabbinic

The Ri in Tosfos (Nedarim 56b) rules that we accept *bereirah* in all areas of *halachah*. The Rambam (Eruvin 8:7, Trumos 1:21, Yom Tov 5:20) rules that in Rabbinic areas of *halachah*, we accept *bereirah*, while in areas of Torah *halachah*, we do not accept *bereirah*.

Two Lugin

The *Gemora* cites a *braisa*: If someone buys wine from amongst the Cutheans (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their conversion was debated as to its validity; they observed some commandments, but not others*), he should say the following: "The two *lugin* (a measurement) that I will eventually separate (*from the one hundred lugin in total*) are *terumah* (tithe for the kohen), ten are *ma'aser rishon* (tithe for the Levite), nine are for *ma'aser sheini* (to be eaten in *Yerushalyim*)," and after redeeming the *ma'aser sheini* (with coins), he can drink right away. These are the words of Rabbi Meir. Rabbi Yehudah, Rabbi Yosi, and Rabbi Shimon forbid this leniency.

Rashi explains the *braisa* to be referring to a case where he does not have a vessel to separate the tithes required to allow him to drink the wine in an orderly fashion.

Some explain it that he did not have any *tahor* vessels.

Rashi in *Sukkah* (23b) explains that the fellow purchased the wine *bein hashemashos* (close to sunset) on Friday and he did not have time to separate the *ma'aser* before *Shabbos*. Since it is forbidden to separate *ma'aser* on *Shabbos*, he did not have what to drink.

Tosfos challenges Rashi's explanation, for if that would be the case, he would not even be allowed to orally declare it to be *ma'aser*, for it is forbidden to fix his produce on *Shabbos*!?

The Kaftor va'Ferach answers that Rashi holds that the manner prescribed in the *Gemora* is permitted, for he is not

actually fixing it on *Shabbos*. He is separating the *ma'aser* after *Shabbos* and retroactively the produce is remedied on *Shabbos*. It emerges that he did nothing on *Shabbos*.

Tosfos explains that the remedy discussed in the *Gemora* is only when it is still *bein hashemashos*. At that time, there was a Rabbinic decree not to separate *ma'aser*, but one, at that time, is permitted to orally declare it to be *ma'aser*.

Cutheans

The *Gemora* cites a *braisa*: If someone buys wine from amongst the Cutheans (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their conversion was debated as to its validity; they observed some commandments, but not others*), he should say the following: "The two *lugin* (a measurement) that I will eventually separate (from the one hundred *lugin* in total) are *terumah* (tithe for the kohen), ten are *ma'aser rishon* (tithe for the Levite), nine are for *ma'aser sheini* (to be eaten in *Yerushalyim*)," and after redeeming the *ma'aser sheini* (with coins), he can drink right away. These are the words of Rabbi Meir. Rabbi Yehudah, Rabbi Yosi, and Rabbi Shimon forbid this leniency.

Tosfos explains that although the Cutheans observed the *mitzvos* that are expressly written in the Torah, and therefore, it would be safe to assume that they already separated *terumah* and *ma'aser*, nevertheless, they are only trusted with respect to the food which they eat. However, the produce which they sell to others, they are not trusted, for the Cutheans were not particular about the transgression of *lifnei iver* (*placing a stumbling block in front of a blind man*). Tosfos in *Sukkah* (23b) explains further that understood that verse only in its literal sense. They maintained that it is forbidden to place a stumbling block in front of a blind man, but there is no prohibition against causing someone else to sin.

However, Tosfos asks: Would selling the produce without separating *terumah* and *ma'aser* not be regarded as stealing from the *Kohanim*? Stealing is a prohibition that they seemingly did observe!

Tosfos answers that since *terumah* and *ma'aser* is considered money that has no claimants (*for which Kohen is regarded as its owner*), it was not considered stealing in their eyes.

Other Rishonim add that, in truth, it is not regarded as stealing. Stealing is only when one takes something away from an owner who can make a claim to it. Since the *Kohanim* cannot forcibly take the produce from him, it is not considered stealing.

DAILY MASHAL

Who Distinguishes Between the Holy and the Mundane

Our *sugya* says that the two goats of Yom Kippur, the *chataas* and the goat for Azazel, must be equal. This teaches us that the holy and the mundane are likely to be equal, almost without any difference. How much must we concentrate to know what is holy and what is mundane! (*Leket Amarim*).